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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/639,672	08/12/2003	John Michael Fenkany	DN2003130	6824
27280	7590	02/24/2005		
THE GOODYEAR TIRE & RUBBER COMPANY INTELLECTUAL PROPERTY DEPARTMENT 823 1144 EAST MARKET STREET AKRON, OH 44316-0001				
			EXAMINER FAYYAZ, NASHMIYA SAQIB	
			ART UNIT 2856	PAPER NUMBER

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H.A

<b>Office Action Summary</b>	<b>Application No.</b> 10/639,672	<b>Applicant(s)</b> FENKANYN, JOHN MICHAEL	
	<b>Examiner</b> Nashmiya S. Fayyaz	<b>Art Unit</b> 2856	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 November 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 14-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/2/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Group I in the reply filed on 11/26/04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 14-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/26/04.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

4. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Medlar- U.S. Patent # 3,897,272. As to claims 1 and 10, Medlar discloses a sensing apparatus for measuring the temperature of rubber by insertion through bore (passageway 66) including a handle (collar 63) at a first end, an elongate tool tip (probe 12) affixed to the handle via sleeve 16 and a remote tip end having a socket for receiving sensor (thermocouple 30) with communication (wires 26 and 28) extending through probe 12, see fig 2 and col.4, lines 21 et seq. As to claim 2, note passageway of two part insulator 18/20 with leads 26/28 extending therethrough. As to claim 3, it is indicated that when the probe 12 and insulator 18/20 are assembled with collar 63, a lip 64 is secured to assemble the parts together, see col. 3, lines 45-57 which seems to suggest

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that at some point the tip is "detachable" from the handle. As to claims 4 and 8, collar 63 appears to be "T-shaped" for gripping. As to claims 5 and 11, note probe 12 is a glass-filled polysulfone support member which is inherently transparent thereby permitting observation of the tip passageway. As to claim 6, note axial slit (grooves 24). As to claims 7 and 12, note Fig. 1 which depicts the tip extending the depth of the bore in material 74. As to claims 8 and 13, note Fig. 3 showing slits 24.

5. Claims 1-5, 7-8, and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Hornung- U.S. Patent # 3,991,615. As to claims 1 and 10, Hornung discloses a temperature sensing probe including handle 60, elongate tool tip (tube 42) and the remote tip 46 end having a socket for receiving thermistor 44 and lead 48, see Fig. 2 and col. 3, lines 35 et seq. Also note indicator 62 for a minimum insertion depth indication. As to claim 2, note lead 50 extending through the handle 60 passageway to end 56. As to claim 3, since collar 57 is "crimped" over housing 42, it would appear that the tip can be recited as "detachable". As to claims 4 and 8, the handle 60 appears to be "T-shaped". As to claims 5 and 11, note the view from Fig. 3, illustrating an opening which can be designated as an observation window since the interiors of the tube 42 are visible. As to claims 7 and 12, note Fig. 2, where the length of the tip appears to be "substantially" equal the depth of the bore made.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nashmiya S. Fayyaz whose telephone number is 571-272-2192. The examiner can normally be reached on Mondays and Thursdays.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on 571-272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
NFayyaz  
Examiner  
Art Unit 2856

nf  
2/17/05

  
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